

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

SIMON AND SIMON, PC, et al.,
Plaintiffs,

v.

ALIGN TECHNOLOGY, INC.,
Defendant.

Case No. 20-cv-03754-VC

MISTY SNOW, et al.,
Plaintiffs,

v.

ALIGN TECHNOLOGY, INC.,
Defendant.

Case No. 21-cv-03269-VC

ORDER REGARDING OUTSTANDING SEALING MOTIONS


Align's requests to seal portions of its briefing and the record at the class certification and summary judgment stages are denied as overbroad. First, Align continues to request sealing of information that is already in the public record (such as the contents of Align's press releases or public statements), information that is not sealed elsewhere in the filings, or information that is easily inferable from the unsealed portions of the sentences. See Simon & Simon, Dkt. No. 318-1 at 13; Dkt. No. 318-5 at 48. Second, Align seeks to seal too much of the expert reports: while the terms of Align's pricing agreements are confidential, the conclusions drawn by the experts after

looking at all of the evidence are not confidential. For example, it would not be appropriate to seal Dr. Singer's conclusion that Align foreclosed a critical share of the market. See Simon & Simon, Dkt. No. 318-1 at 72. Third, Align attempts to seal entire documents too frequently—it is not clear without further explanation that every internal email between Align employees meets the requirements for sealing.

Given that, Align is directed to file new motions to seal in both the Simon & Simon and Snow actions, which should be narrowed to reflect the guidance from this order. The proposed order should account for all outstanding sealing requests. 3Shape's sealing requests suffer from the same issues. 3Shape is also directed to file an updated sealing motion that accounts for its outstanding sealing requests and provides a better explanation of why the specific material that it requests to have sealed is confidential. To be clear, no further action is needed by the direct purchaser plaintiffs, the indirect purchaser plaintiffs, or third parties other than 3Shape. All responsive filings are due in 21 days.

IT IS SO ORDERED.

Dated: March 12, 2024



VINCE CHHABRIA
United States District Judge